

REMARKS

Please reconsider the application in view of the following remarks. Applicant thanks the Examiner for carefully considering this application.

Disposition of Claims

Claims 1-29 were pending in this application. Claims 9, 23, 27 and 29 have been canceled by way of this reply without prejudice of disclaimer. Claims 30-58 have been newly added by way of this reply. Accordingly, claims 1-8, 10-22, 24-26, 28 and 30-58 are currently pending in this application. Claims 1, 15, 26, 28, 36 and 49 are independent. The remaining claims depend, directly or indirectly, from claim 1, 15, 26, 28, 36 or 49.

Claim Amendments

Independent claim 1 has been amended by way of this reply to include all the limitations of claim 9. Independent claim 15 has been amended by way of this reply to include all the limitations of claim 23. Independent claim 26 has been amended by way of this reply to include all the limitations of claim 27. Independent claim 28 has been amended by way of this reply to include all the limitation of claim 29. No new matter has been added by way of these amendments. Accordingly, claims 9, 23, 27 and 29 have been canceled by way of this reply without prejudice of disclaimer. In addition, claims 1-8, 10-22, 24-26, 28 have been amended by way of this reply to correct minor errors. No new matter has been added. Claim 30 has been newly added by way of this reply. No new matter has been added, as support for this claim may be found, for example, in Figure 22 (b).

New independent claims 36 and 49 have been added by way of this reply. Applicant has rewritten claims 8 and 19 in independent form as new claims 36 and 49 respectively including all of the limitations of the base claim and any intervening claims as suggested by the Examiner, and believes them to be in condition for allowance. Claims 37-48 have been newly added by way of this reply to include all the limitations of claims 2, 5-7, 9-14 and 30 respectively. Claims 50-57, have been added by way of this reply to include all the limitations of claims 16, 20-25 and 30 respectively. No new matter has been added. Claims 37-48 and 50-58 are directly or indirectly dependent from new independent claims 36 and 49 and are allowable for at least same reasons as claims 36 and 49.

Rejection under 35 U.S.C. § 102

Claims 1-7, 13-18, 20-22, 26 and 28 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,789,224 to Miura (hereinafter “Miura”).

As explained above, Applicant has amended independent claims 1, 15, 26 and 28 to include all the limitations of claims 9, 23, 27 and 29 respectively. Applicant respectfully asserts that Miura fails to show or suggest the invention as recited in amended independent claims 1, 15, 26 and 28. This is evidenced by that claims 9, 23, 27 and 29 are not rejected under 35 U.S.C. § 102(e) and that the Examiner acknowledges that Miura fails to teach or suggest the limitations of claims 9, 23, 27 and 29 (*see* Office Action dated February 20, 2007, at page 10). Therefore, Miura fails to show or suggest the invention as recited in amended independent claims 1, 15, 26 and 28. Thus, independent claims 1, 15, 26 and 28 are patentable over Miura. Dependent claims are allowable for at least same reasons. Accordingly, withdrawal of this rejection is respectfully requested.

Rejection under 35 U.S.C. §103

Claims 9-12, 23-25, 27 and 29 stand rejected under 35 U.S.C. § 103 as being unpatentable over Miura in view of JP Patent Publication No. JP 2000-162290 to Shimooka (hereinafter “Shimooka”).

Applicant respectfully asserts that Miura is not available as proper prior art reference under 35 U.S.C. § 103 and requests that the Examiner withdraw the rejection based on Miura. Miura is only available as a reference as of its filing date under 35 U.S.C. § 102(e). Because the present invention and Miura were commonly owned at the time of the making of the present invention, Miura is not available as prior art under § 103. Due to the filing date of the instant application, December 10, 2003, the instant application is an application to which the newly amended 35 U.S.C. § 103 applies. Advantest Corporation is the assignee of Miura (U.S. Patent No. 6,789,224) by virtue of an Assignment from all of the inventors thereof and is also the assignee of the above-captioned U.S. Application No. 10/732,763 by virtue of an Assignment from all of the inventors thereof executed on November 11, 2003 and filed with the USPTO on December 10, 2003. The undersigned hereby submits that Miura and the claimed invention were, at the time the invention of the instant application was made, owned or subject to an obligation of assignment to Advantest Corporation.

In view of the above, it is respectfully submitted that Miura is not proper prior art under 35 U.S.C. § 103 and it is requested that the rejection under 35 U.S.C. § 103 be reconsidered and withdrawn.

Conclusion

Applicant believes this reply is fully responsive to all outstanding issues and places this application in condition for allowance. If this belief is incorrect, or other issues arise, the Examiner is encouraged to contact the undersigned or his associates at the telephone number listed below. Please apply any charges not covered, or any credits, to Deposit Account 50-0591, Reference Number 02008/135001.

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Respectfully submitted,

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